

**REMARKS**

Favorable consideration and allowance are respectfully requested for claims 14, 16, and 18-31 in view of the foregoing amendments and the following remarks.

The Examiner is thanked for the courtesies extended during the personal interview held June 29, 2005, the substance of which is reflected herein. The Examiner is also thanked for the careful review and consideration of this case and the notice that claims 16 and 18 are allowed, as well as the withdrawal of the previous 112 rejection.

The objection to claims 14, 16 and 18-31 is respectfully traversed. Claims 14, 23 and 30 are amended to recite at least two negative electrodes which is consistent with the scope of the claims in requiring two negative electrodes as the outmost electrodes. Claims 16 and 18 were indicated to be allowed (see page 15 of the Office Action). The remaining claims appear to have been rejected for their dependency on a rejected base claim. The foregoing amendments are believed to address this objection and reconsideration and withdrawal of this objection are respectfully requested.

The rejection of claims 14, 16 and 18-31 under 35 U.S.C. § 112, first paragraph, for lack of enablement is respectfully traversed. The scope of the claims includes providing multiple gas-permeable, hydrophobic transport elements. This arrangement is clearly supported by the application as filed. For instance, the drawing shows a plurality of such transport elements 12. Further, paragraph [0019] describes multiple negative electrodes made of two half part electrodes which are separated by a gas-permeable transport element in the form of a hydrophobic nonwoven layer. One of skill in the art would understand this language to indicate that each of the multiple negative electrodes made of two half part electrodes is provided with a gas-permeable transport element. Thus, it is clear that a plurality of such transport elements are provided.

The standard for adequate enablement is whether the specification describes the claimed subject matter in such a way as to enable a person skilled in the art to which it pertains to make and/or use the invention. Thus, enablement is judged in view of the combined teachings of the specification and the knowledge of one skilled in the art. As explained above, the specification and accompanying drawings clearly show multiple transport elements and accordingly the claims are properly enabled. Reconsideration and withdrawal of the rejection are respectfully requested.

The rejection of claims 14, 16 and 18-31 under 35 U.S.C. § 112, second paragraph, as indefinite, is respectfully traversed. The Office Action asserts that the number of transport elements relative to the negative electrodes is unclear and indefinite. As amended, the claims recite that each of the outmost negative electrodes are flanked by a respective hydrophobic gas-permeable transport element.

Claims directed to "one or more" or "a plurality of" elements are not indefinite. Such claim language is commonly and widely used. A person of skill in the art can readily determine the scope of the claim, and whether some activity or device would infringe the claim. The law does not require that a specific number of elements be claimed. Accordingly, the claims, as amended, are clear and definite.

The claims are also rejected for reciting only one negative electrode and later requiring two or more negative electrodes. The claims are amended to recite at least two negative electrodes as suggested in the Office Action.

Finally, claims 19 and 20 were rejected as allegedly unclear in which transport element is further defined therein. Claims 19 is amended to recite that at least one transport element is a hydrophobic nonwoven layer. Accordingly, the claims are sufficiently definite that any of the plurality of transport elements may be a hydrophobic nonwoven layer.

Reconsideration and withdrawal of this rejection are respectfully requested.

The rejection of claims 14 and 30-31 under 35 U.S.C. § 102(b) as anticipated by van Ommering (US Patent No. 4,115,630) is respectfully traversed.

Each of claims 14 and 30-31 require two outmost negative electrodes flanked by a respective gas-permeable hydrophobic element.

The Office Action indicates that van Ommering discloses a stack of alternating negative and positive electrode layers with the stack beginning and ending with negative electrodes. The Office Action also asserts that "end plates provide means for handling the cell and thus constitute transport plates." As amended, the claims clarify that the transport elements are hydrophobic and gas-permeable. van Ommering describes compression plates 66 which may be made from an inert material such as polypropylene, polysulfone by compression molding. See column 6, lines 49-56. van Ommering further indicates that the compression plates are used to maintain the stack in its proper orientation. There is no teaching or suggestion that the plates may be gas permeable so as to offer the desired charge balancing effect in the negative electrodes as is described in the present specification. Thus, van Ommering does not teach or suggest that the two outermost electrodes are negative electrodes which are each flanked by a gas-permeable, hydrophobic transport element as claimed. Further, claim 14 clarifies that the term "transport" is used in the sense of transporting gases. This is different than end plates used for handling a cell. In view of these differences, reconsideration and withdrawal of this rejection are respectfully requested.

The rejection of claims 19, 20, 21, 22, 23, 25-29, 24 under 35 U.S.C. § 103 as obvious over van Ommering, in view of various references, is traversed. Each of these claims is dependent either directly or indirectly from claim 14. As indicated above, van Ommering fails to teach each and every element of claim 14. The other various references similarly fail to teach the missing elements of claim 14. Indeed, these other references are not cited against claim 14. Accordingly, these claims

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are not obvious over the cited combinations of references. Reconsideration and withdrawal of these rejections are respectfully requested.

### CONCLUSION

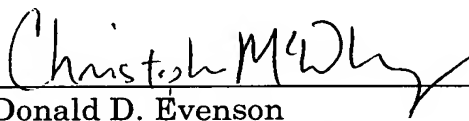
In view of the foregoing, the application is respectfully submitted to be in condition for allowance, and prompt favorable action thereon is earnestly solicited.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #080449.50806US).

Respectfully submitted,

August 16, 2005

  
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